

**Notice of Allowability**

Application No.

10/687,778

Applicant(s)

DIFFLEY, BRETT J.

Examiner

Urszula M. Cegielnik

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 14 August 2007.
2. ☒ The allowed claim(s) is/are 1 and 3-10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
EUGENE KIM  
SUPERVISORY PATENT EXAMINER

### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The specific limitation(s) of "...the lower portion of the buoyant body is an inflatable structure that includes said bottom opening, and said upper portion has a lower end that is connected to the lower portion substantially about the bottom opening, said lower portion being inflatable to make the buoyant body buoyant, and said upper portion being inflatable to give it a stand up form whereby it stands up from the lower portion...." are not anticipated or made obvious by the prior art of record in the examiner's opinion. For example, **Waller (US Patent No. 6,415,451)** discloses a water toy comprising a buoyant body (12) having a lower portion (the lower portion of reference numeral 12) adapted to float on a body of water, and an upper portion (the upper portion of reference numeral 12) connected to the lower portion (the lower portion of reference numeral 13) and extending upwardly from it; said upper portion including top (the top portion of reference numeral 12) and side walls (the portion extending rearwardly of reference numeral 15) forming an inner cavity (the inner cavity formed by area between the strap and mask), said lower portion (the lower portion of reference numeral 12) including a bottom opening (the point of entry or ingress of the mask for a user's head) entering into said inner cavity (the inner cavity formed by area between the strap and mask); said bottom opening and said cavity (the inner cavity formed by area between the strap and mask) being sufficiently large to receive the head of a person (the cavity is inherently large to receive the head of a person, since the structure is for mounting onto a person's head); said upper portion (the upper portion of reference numeral 12) including at least one

Art Unit: 3711

sight opening (the upper portion encompassing reference numeral 13) through which a person whose head is in the cavity can look; at least one water gun (15) mounted on the buoyant body, said water gun (15) having a water discharging portion (the upper portion of reference numeral 17) above the water; a pump (20) for pumping water up to and out through the water discharging portion (the upper portion of reference numeral 17), and a hand operated control portion (16) positioned to be grasped by and operated by a hand of a person whose head is in the cavity; whereby said person can use the control (16) to operate the pump (20) cause water to discharge from the discharging portion (the upper portion of reference numeral 17) of the water gun (15); the lower portion includes a second opening (proximate reference numeral 15) on one side of the bottom opening and a third opening (proximate reference numeral 15) on the other side of the bottom opening, a first water gun (15) is situated in the second opening, with its discharging portion (the upper portion of reference numeral 17) above the lower portion of the buoyant body (12) and its hand operated control portion (16) positioned in the water below the buoyant body (12) and a second water gun (15) is situated in the third opening (proximate reference numeral 15), with its discharging portion (the upper portion of reference numeral 17) above the lower portion (the lower portion of reference numeral 12) of the buoyant body (12) and its hand operated control portion (16) positioned in the water below the buoyant body (12).

However, the prior art fails to teach "...the lower portion of the buoyant body is an inflatable structure that includes said bottom opening, and said upper portion has a lower end that is connected to the lower portion substantially about the bottom opening,

Art Unit: 3711

said lower portion being inflatable to make the buoyant body buoyant, and said upper portion being inflatable to give it a stand up form whereby it stands up from the lower portion....”

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

umc

  
EUGENE KIM  
SUPERVISORY PATENT EXAMINER